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U.S. CHARGES THREE BUSINESSMEN AND TWO CORPORATE ENTITIES
WITH PARTICIPATING IN SCHEME TO PAY MILLIONS OF DOLLARS
IN SECRET KICKBACKS TO THE GOVERNMENT OF IRAQ
IN CONNECTION WITH THE UNITED NATIONS'
OIL-FOR-FOOD PROGRAM

DAVID N. KELLEY, the United States Attorney for the Southern District of New York, and JOHN KLOCHAN, the Acting Assistant Director in Charge of the New York Office of the Federal Bureau of Investigation ("FBI"), announced the unsealing today of an Indictment against DAVID B. CHALMERS, JR., a Texas businessman; two entities in which CHALMERS was the sole shareholder, BAYOIL (USA), INC., an oil company based in Texas, and BAYOIL SUPPLY & TRADING LIMITED, a Bahamian company (collectively, the "BAYOIL COMPANIES"); and two individuals who worked with CHALMERS to purchase Iraqi oil for the BAYOIL COMPANIES, JOHN IRVING, a British citizen, and LUDMIL DIONISSIEV, a Bulgarian citizen and legal permanent resident of the United States, currently residing in Houston, Texas. The charges are contained in a Superseding Indictment filed under seal on April 13, 2005, and unsealed today in Manhattan federal court.

According to the Indictment, CHALMERS, the BAYOIL COMPANIES, IRVING, and DIONISSIEV participated in a scheme to pay millions of dollars in secret kickbacks to Saddam Hussein's regime in Iraq. These secret kickbacks were paid so that the BAYOIL COMPANIES could continue to participate in the business of selling Iraqi oil under the United Nations' Oil-for-Food Program.

As set forth in the Indictment, the United Nations imposed comprehensive economic sanctions on Iraq following its 1990 invasion of Kuwait. These sanctions were modified by the United Nations Security Council's April 14, 1996, adoption of Resolution 986, which authorized the Government of Iraq to sell oil, provided that the proceeds from any oil sales were deposited into a United Nations-monitored bank account in Manhattan. Funds deposited into that account were to be used only for the purchase humanitarian goods for the benefit of the Iraqi people. The price at which Iraqi oil was sold under the Oil-for-Food Program – the Official Selling Price, or "O.S.P." – was recalibrated regularly by a group of oil "overseers" at the United Nations. The purchasers of oil and sellers of humanitarian goods, however, were chosen by Saddam Hussein's regime.

Iraqi oil could be purchased in the first instance only by people or entities that had been granted – or "allocated" – the right to buy Iraqi oil by the Government of Iraq. Under the United Nations' Oil-for-Food Program, these "allocations" of oil were typically purchased from their recipients by oil companies

or brokers at a price that included the price set by the United Nations oil overseers, plus a commission paid to the allocation-holder and/or its broker.

As alleged in the Indictment, between in or about mid-2000, up to and including in or about March 2003, the Government of Iraq required recipients of allocations of oil to pay a secret surcharge to Iraq. These secret payments were not made to the United Nations-monitored bank account from which humanitarian goods could be purchased for the Iraqi people. Rather, these secret payments were illegal kickbacks made – in violation of United Nations sanctions and United States criminal law – to front companies and bank accounts designated and controlled by the Iraqi regime, it was charged. In order to cover their surcharge obligations to the Government of Iraq, recipients of oil allocations were forced to demand higher commissions from purchasers of those allocations.

As set forth in the Indictment, from in or about 2001 through in or about March 2003, knowing that the Government of Iraq was requiring oil allocation recipients to pay secret surcharges, CHALMERS, IRVING, DIONISSIEV, and the BAYOIL COMPANIES paid inflated commissions to allocation-holders or oil-industry brokers – with the knowledge and understanding that some portion of these commission payments would be used to satisfy the allocation-holders' kickback obligations to the Government of Iraq. By participating in this surcharge scheme and bypassing

the Oil-for-Food Program, CHALMERS, IRVING, DIONISSIEV, and the BAYOIL COMPANIES diverted funds from the Oil-for-Food Bank Account that otherwise would have been available to purchase humanitarian goods under the Oil-for-Food Program.

For example, during 2001, CHALMERS, on behalf of the BAYOIL COMPANIES, allegedly caused millions of dollars in inflated commissions to be paid to a non-U.S. company ("Foreign Company"), whose operations were funded almost exclusively by CHALMERS and the BAYOIL COMPANIES. These inflated commissions related to oil that CHALMERS and the BAYOIL COMPANIES purchased from the Foreign Company – and were allegedly paid on the understanding that the Foreign Company would use a portion of the inflated commissions it received to funnel secret kickback payments to the Government of Iraq, by way of a front company designated by the Iraqi regime.

The defendants' alleged participation in this "surcharge scheme" was not limited to their own indirect kickback payments. As set forth in the Indictment, the defendants also conspired with Iraqi officials to deflate the official selling price of Iraqi oil – and thereby reduce the funds available to purchase humanitarian goods for the Iraqi people under the Oil-for-Food Program – in an effort to hide the rise in price for Iraqi oil occasioned by the Iraqis' surcharge requirement. Toward this end, CHALMERS and the BAYOIL COMPANIES used interstate and foreign wires to supply United Nations oil overseers – directly,

in Manhattan, and indirectly, through Iraqi officials in Baghdad — with fraudulent information regarding the high costs of doing business under the Oil-for-Food Program. DIONISSIEV and IRVING allegedly assisted CHALMERS and the BAYOIL COMPANIES in this effort by, among other things, disseminating pricing information to allocation-holders and requesting that these allocation-holders transmit the pricing data to Iraqi officials in Baghdad who were negotiating the O.S.P. with the United Nations oil overseers.

If convicted of the charges contained in the Indictment, CHALMERS, IRVING, and DIONISSIEV each face a maximum term of incarceration of 62 years and a maximum fine of \$1 million or twice the gross gain or loss resulting from their offenses. If convicted, the BAYOIL COMPANIES would each be required to pay a maximum fine of \$2 million or twice the gross gain or loss resulting from their offenses. The defendants would also be required to make restitution.

The Indictment also announces the Government's intention to seek criminal forfeiture of at least \$100 million in assets from the defendants.

CHALMERS and DIONISSIEV were arrested this morning at their homes in Houston, Texas. They will both be presented before a United States Magistrate Judge in Houston later today. They are scheduled to appear for arraignment before United States

District Judge DENNY CHIN in Manhattan federal court on Monday, April 18, 2005, at 10:00 a.m. JOHN IRVING is currently believed to be in England and the United States Attorney's Office will seek his extradition.

Mr. KELLEY praised the Federal Bureau of Investigation, Criminal and Counterintelligence Divisions. He also expressed appreciation to the United States Treasury Department, Office of Foreign Assets Control, for their assistance in this investigation.

Assistant United States Attorneys EDWARD O'CALLAGHAN, STEPHEN MILLER, AND MICHAEL FARBIARZ are in charge of the prosecution.

The charges contained in the Indictment are merely accusations, and the defendants are presumed innocent unless and until proven guilty.